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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,627	11/30/2000	Carlos Eduardo Wendler	CRI006	8043
7590 10/27/2004			EXAMINER	
Keith Kline 14910 Bonner Court Morgan Hill, CA 95037-5925			MOSSER, ROBERT E	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/701,627

Applicant(s)

WENDLER ET AL.

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically the claims language of independent claim 5 recites "a user". As presented this language encompasses a process incorporating a human and as such encompasses a phenomena of nature and is not eligible for patent protection as such.

Applicants may however claim a process for allowing a user to perform a function such as those presented in US patent 5,772,511 to Smeltzer previously cited.

For the purposes of examination the pending claims have been viewed in the preceding manner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Golden Palace Casino web page (GPC).

Regarding claims 5 and 10, GPC teaches the use of a user logging on to the Internet through use of their service provider (page 4 paragraph 3). The claimed multiple connected microcomputers and associated peripherals with portions of those computers including scanners, printers, and tape units, is deemed to be implicit to the multitude of users with their respective computers and associated peripherals connected to the service provider.

The GPC teaches a an internet web page including a main menu with a plurality of game play choices (page 1 "Play For Free" "Play For Money"), results of previous plays (page 1, "Previous Winners") and the option to continue (page 1, "Play For Real Money"), and the option to leave the page (page 1, "Gamblers Anonymous).

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The claimed displaying of game play parameters upon the user's choice to continue is equivalent to the menu option of "How It Works" and associated disclosure on page 3.

The presentation of a summary of play choices as well as a summary of the costs associated with the choices to the user is taught by GPC (pages 12-14) wherein the costs may be view<sup>ed</sup> as the wager amount for a variable wager game, the ante amount for a fixed ante amount, or the cost per spin/line for the slot machine embodiments.

GPC presents the claimed user payments and collections made through electronic means (pages 17-18) including software, credit card, and bank wire transfer.

GPC teach teaches the game "scratch card" on page 14 understood as a "scratch-and-win" type game card with an upper and lower layer wherein the player removes the upper layer in order to view the lower layer.

Regarding claims 6 and 7, GPC is silent regarding error handling procedures, however it would have been obvious to one of ordinary skill in the art at the time of invention to include web page not accessible (404 type) browser errors after a predetermined number of attempts to reach the requested web page are unsuccessful due to loss of internet connection or alternative incorrect login information is provided to a web-page in order to assist the user in diagnosing a connectivity issue or prevent unauthorized users from hacking user accounts.

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Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Golden Palace Casino web page (GPC) in view of Holch et al (5,800,269).

GPC is silent regarding the incorporation of a touch activated screen, a card reader, and a printer for the printing of receipts however in a related patent Holch teaches the inclusion of a touch activated screen for player interface (Col 4:46-50), a magnetic card side for the processing of credit cards (Col 4:55-59), and printer for producing customer receipts (Col 6:15-17). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the above features of Holch into the system of GPC in order to provide a separate public interface for their web based casino.

### ***Conclusion***

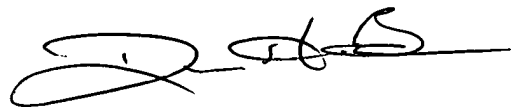
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM



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